HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 490 of 2007

Between:

S. Venkata Ramana

… Appellant

And

The Authorized Officer,
L.I.C. Housing Finance Limited,
Visakhapatnam

… Respondent

:: J U D G M E N T ::

Counsel for the appellant : Shri K.V. Shekar

June 15, 2007

Per G.S. Singhvi, CJ

Having failed to persuade the learned Single Judge to stay order dated Nil-04-2007 passed by Collector, Visakhapatnam under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the 2002 Act'), the writ petitioner has filed this appeal under Clause 15 of the Letters Patent.

We have heard Shri K.V. Shekar, learned counsel for the appellant and perused the record.

Since the writ petition filed by the appellant for quashing order in Rc.No.2078/2006/C8 dated 00-04-2007 is pending adjudication before the learned Single Judge, we do not consider it proper to express any opinion on the merits of the action initiated by the respondent under the 2002 Act. However, it is apposite to mention that the appellant had taken loan of Rs. 1,90,000/- from LIG Housing Finance Limited in January and February 1991 by mortgaging the house property bearing assessment No. 2/77, Survey No. 30, Narsipatnam Village, Visakhapatnam District and as on today, a sum of over Rs.4,52,000/- is payable by him.

The admission of writ petition filed by the appellant can, at best, be treated as an indication of the Court's willingness to examine on merits the petitioner's challenge to the action initiated by the respondent under the 2002 Act, but this, by itself, is not sufficient for passing an interim order ex debito justitiae. An interim order can be passed by the Court only if it is satisfied that the applicant has been able to make out a strong prima facie case and the elements of balance of convenience and irreparable injury are in favour of grant of interim relief. In matters involving recovery of public money/dues, the elements of balance of convenience, irreparable injury and public interest are largely against interlocutory judicial intervention. Interim injunction or stay in such matters should be granted only in exceptional case when the Court is convinced that the action taken by the respondent is ex facie illegal or the impugned proceedings have been taken in violation of the mandatory legislative provisions. In **Assistant Collector of Central Excise, Chandan Nagar, W.B. v. Dunlop India Limited**[1], the Supreme Court, in no uncertain terms, deprecated the practice of interlocutory intervention by the High Courts in the matters involving recovery of the public dues.

In the present case, the appellant has failed to show that the

proceedings initiated by the respondent under the 2002 Act are without jurisdiction and that the elements of balance of convenience, irreparable injury and public interest are in favour of entertaining his prayer for stay.

For the reasons stated above, we do not find any valid ground much less justification for entertaining the appellant's prayer for total stay of the action initiated by the respondent for recovery of its dues.

With the above observations, the appeal is dismissed.

As a sequel to dismissal of the writ appeal, W.A.M.P. No.938 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

15.06.2007
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[1] **AIR 1985 SC 330**